


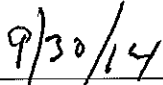
Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2014-00035, to allow the property to be used as a non-owner occupied Converted Dwelling containing two units, under Section 3.3241 of the Zoning Bylaw, at 560 South East Street (Map 17D, Parcel 11, R-N, FPC Zoning District), with the following conditions:

1. The main house shall be restricted to no more than four unrelated individuals as defined under Section 12.161 of the Zoning Bylaw.
2. The second, smaller unit shall be limited to a single individual, as defined under Section 12.160 of the Zoning Bylaw. The unit shall be used and maintained in accordance with the floor plans approved in 2007.
3. There shall be no more than four cars parked on the property on a regular basis. Parking shall be in accordance with the parking plan approved on June 11, 2014. The creation of any additional parking shall require modification of this Special Permit.
4. The property shall be managed in accordance with the approved Management Plan.
5. A tenant in one of the units shall be identified and shall act as the Resident Manager. Upon a change of Resident Manager, the new name and contact information shall be submitted to the Planning Department, to be kept there on file.
6. Upon a change of ownership of the property, a revised/updated Management Plan shall be submitted to the Board at a public meeting. Said Plan shall address all relevant matters pertaining to an "apartment" as listed on the Management Plan form, including but not limited to lease, complaint response plan, and parking. The purpose of the public meeting will be to determine compliance with conditions or to determine whether changes are substantial enough to require modification of the permit.
 - a. In advance of the meeting, the owner shall be responsible for providing notification to abutters in accordance with Town procedures for notice under Chapter 40A, Section 11. This may require the owner to obtain a Certified List of Abutters and provide a minimum of two week public notice.



Tom Ehrgood, Acting Chair
Amherst Zoning Board of Appeals



DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Jean Bleecker, 111 Maybrook Road, Holland, MA 01521

Date application filed with the Town Clerk: April 16, 2014

Nature of request: For a Special Permit to change use of the property from a supplemental apartment to a non-owner occupied Converted Dwelling maintaining two units.

Address: 560 South East Street (Map 17D, Parcel 11, R-N Zoning District)

Legal notice: Published on May 28, 2014 and June 4, 2014 in the Daily Hampshire Gazette and sent to abutters on May 29, 2014

Board members: Tom Ehrgood, Mark Parent, Yuri Friman

Staff members: Jeff Bagg, Senior Planner

Submissions:

- Application form filed with the Town Clerk on April 16, 2014
- Management Plan, and Additional Information Required for Apartments, dated June 9, 2014
- Complaint Response Plan
- Rental Permit application form
- Parking Plan, Town GIS, dated March 5, 2014
- ZBA FY2007-00022, with approved plans

Site Visit: June 11, 2014

Tom Ehrgood, Mark Parent, and Yuri Friman observed the location of the property on the east side of South East Street, and the following:

- The location of the existing dwelling setback and blocked from the view of South East Street. A long driveway entering into an existing gravel parking area.

Public Hearing: June 11, 2014

In connection with the Town's Rental Permit program, the applicant, Jean Bleecker, is seeking a new Special Permit to allow use of the property as two units with no owner occupancy. In 2007, the applicant applied for and was granted a Special Permit (ZBA FY2007-00022) for a supplemental apartment. Ms. Bleecker was the owner at the time and intended to continue to reside on the premises. Circumstances changed, and in 2008 Ms. Bleecker maintained ownership of the property but moved from the property. Then or later, the small supplemental apartment was made handicapped accessible and the main house was rented.

Upon application for the Rental Permit, it was discovered that Ms. Bleecker was no longer residing on the premises, and thus the use was out of compliance with condition # 5 requiring that *"the building shall be owner-occupied."*

Because a Supplemental Apartment under Section 5.011 requires owner occupancy, the application cannot modify the existing permit. The application must seek approval for a new Special Permit under a different use category. Because the unit has already been constructed and no exterior changes to the building are necessary, the most appropriate category is a Converted Dwelling.

Findings:

The Board finds under Section 12.08 and 3.3241 of the Zoning Bylaw, that:

12.08 - A use containing one or more dwelling units created predominantly through the conversion of existing residential or non-residential space, where said units are located in or attached to an existing residence of ten or more years of age, or a detached structure constructed prior to 1964, located on a lot where at least one dwelling unit lawfully existed prior to the conversion. A converted dwelling use may include portions of dwelling units created through new construction, but no new dwelling unit in a converted dwelling use may be created as a result of new construction alone. Proposed multi-unit residential uses not meeting the thresholds established for the conversion of existing space shall be considered to be the residential use category most closely corresponding to the total number of new dwelling units they include and the nature of the use, as determined by the Zoning Enforcement Officer or Special Permit Granting Authority or Permit Granting Board, as applicable. The house was built prior to 1963 according to the Town's Assessor's records.

3.3241 (1)- An existing residence, a structure attached to an existing residence, or a detached structure, may be converted into a dwelling unit or units provided all other zoning requirements which would apply to converted dwellings are met. This proposal involves a unit within an existing structure. All other zoning requirements appear to be met for this use.

3.3241 (2) - A conversion of a structure shall not exceed the total number of dwelling units allowed on the lot. The total number of dwelling units shall not exceed 4 in the R-N, R-O, and R-LD districts and shall not exceed 6 in the R-VC, R-G, B-G, B-L and B-VC districts. Conversion in the Aquifer Recharge Protection (ARP) or Watershed Protection (WP) overlay districts shall not be permitted. The proposal involves two units. The property contains 28,262 square feet where pursuant to Table 3, 26,000 square feet are required for two units. Therefore, this criterion is met.

3.3241 (4) - There shall be no significant change in the exterior of the building, except that the Zoning Board of Appeals may authorize modification or alteration of a building if such modification or alteration does not substantially change the building's character or its effect on the neighborhood or on property in the vicinity. Demolition of the existing structure proposed for conversion shall not be permitted. The proposal does not involve any exterior changes to the building. Physical changes to the building were approved under the previous Special Permit, ZBA FY2007-00022.

3.3241 (5) -Except as hereinafter provided, no converted dwelling use shall involve the demolition and removal of an existing structure proposed for conversion shall not be permitted. No demolition is proposed or needed.

3.3241 (6) - *The proposed conversion shall be suitably located in the neighborhood in which it is proposed, as deemed appropriate by the Special Permit Granting Authority. The conversion, if in a residential district, shall either: a) be located in an area that is close to heavily traveled streets, close to business, commercial and educational districts, or already developed for multi-family use, and shall require owner occupancy or a Resident Manager (see definition) in one of the units; or b) be from one to two units, one of which shall be and shall remain owner-occupied, which shall be made a condition of any Special Permit issued in such an instance.* The Board finds that this portion of South East Street is a heavily traveled street and that the proposal provides a Resident Manager as required under this section. The Board also finds that the apartment is limited in size and therefore limited in the number of tenants, thus reducing the potential for noise or other issues.

3.3241 (7) - *The dwelling units shall be connected to the public sewer. However, the Zoning Board of Appeals may authorize, with the approval of the Board of Health, the conversion of a structure to allow an increase from one dwelling unit to two dwelling units on a lot serviced by a septic system.* The property is on a septic system and that the permission granted in 2007 to establish the second unit included review and approval by the Board of Health

3.3241 (8) - *The Zoning Board of Appeals may modify the dimensional requirements of Table 3, to, one time only for any parcel, allow a conversion under Section 3.3241 that would add one additional unit, only if it finds the modification would be in accordance with the provisions of Section 9.22.* Not applicable.

3.3241 (9) - *No detached structure shall be converted under the provisions of Section 3.3241 unless it abides by the provisions of Condition 5. above and upon completion provides at least 350 square feet of habitable space.* Not applicable

3.3241 (10) - *A management plan as defined in the Rules and Regulations adopted by the Zoning Board of Appeals, shall be included as an integral part of any application.* The Board finds that the submitted Management Plan is adequate for the use and identifies the current tenant in the basement apartment. The lease agreement will inform tenants of the applicable Town regulations. The Board determined that upon a change in the Resident Manager, the Town should be notified.

3.3241 (11) - *A landscape plan appropriate for the project shall be included in the application.* The Board finds that the existing landscaping is sufficient due to the amount of existing landscaping and relative remoteness of the property.

3.3241 (12) - *Converted dwellings in the R-O and the R-LD districts shall provide a minimum of 2,000 sq. ft. of usable open space per dwelling unit for the use of occupants. Converted dwellings in the R-N district shall provide a minimum of 1,000 sq. ft. of usable open space per dwelling unit.* The Board finds that the tenants have access to the outside areas on the property and that the area.

The Board discussed parking. The applicant expressed concern that four spaces may not be sufficient for future tenants and/or guests. The Board determined that in order to expand the parking area, some physical changes to the site would have to occur, including but not limited to upgrading the gravel sub-base, creating a turnaround area, and possible approval from the Conservation Commission. The applicant agreed to maintain the four spaces until such time as she modifies the permit to obtain necessary approval.

Specific Findings:

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 - *The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District.* The proposal creates two units rental units on the property. The Board finds that the use is compatible with other uses in the same district because there will a Resident Manager, the property is fairly isolated, and the second unit is a small.

10.382, 10.383 & 10.385 - *The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features.* The Board finds that the isolated location of the property eliminates the potential for the use to create a nuisance. The condition for a Resident Manager allows for a continued good use of the property and eliminates issues related to noise or other nuisance activity. Additionally, a satisfactory response plan is on file to identify responsible parties.

10.384 and 10.389 - *Adequate and appropriate facilities would be provided for the proper operation of the proposed use; The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water.* The Board finds that the property is on a septic system and there are no known issues related to drainage.

10.386 - *The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw.* The proposal provides for four parking spaces which complies with the minimum requirements for two units. The Board finds that the parking spaces are on an improved surface. It was noted that expansion of the parking would require modification of the permit.

10.387 - *The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements.* The proposal provides for an turnaround area in the parking area and at the end of the driveway.

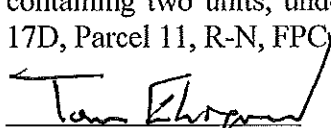
10.392 - *The proposal provides adequate landscaping, including the screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage.* The Board finds that the existing landscaping is suitable for the use, including a privacy fence adjacent to the rail trail.

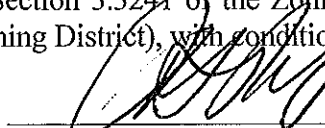
10.398- *The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan.* The proposal provides for a more accurate depiction of existing conditions on this property which is important to the Town relative to the Rental Permit program.

Zoning Board Decision

Mr. Parent MOVED to approve the application with conditions. Mr. Friman seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2014-00035, to allow the property to be used as a non-owner occupied Converted Dwelling containing two units, under Section 3.3241 of the Zoning Bylaw, at 560 South East Street (Map 17D, Parcel 11, R-N, FPC Zoning District), with conditions.


TOM EHRCOOD


MARK PARENT


YURI FRIMAN

FILED THIS 1st day of October, 2014 at 4:11 pm
in the office of the Amherst Town Clerk Chandra J. Berger
TWENTY-DAY APPEAL period expires, October 21, 2014.
NOTICE OF DECISION mailed this 3 day of October, 2014
to the attached list of addresses by Jeffrey R. Bagg, for the Board.
CERTIFICATE OF NO APPEAL issued this day of , 2014.
NOTICE OF PERMIT or Variance filed this day of , 2014,
in the Hampshire County Registry of Deeds.

**BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED**

Petition of Jean Bleecker

For A Special Permit to change use of the property from a supplemental apartment to a non-owner occupied Converted Dwelling maintaining two units

On the premises of 560 South East Street
At or on Map 17D, Parcel 11, R-N Zoning District

NOTICE of hearing as follows mailed (date) May 29, 2014
to attached list of addresses and published in the Daily Hampshire Gazette
dated May 28, 2014 and June 4, 2014

Hearing date and place June 11, 2014(Town Hall)

LEGAL NOTICE
The Amherst Zoning Board of Appeals will meet on *Wednesday, June 11, 2014*, at 6:30 PM, in the First Floor Meeting Room, Town Hall, to conduct the following business:
PUBLIC HEARINGS:
ZBA FY2014-00035 - Jean Bleecker - For a Special Permit to change use of the property from a supplemental apartment to a non-owner occupied Converted Dwelling maintaining two units, at 560 South East Street (Map 17D, Parcel 11, R-N Zoning District) ZBA FY2014-00036 - Andrew and Ming Cole - For a Special Permit to modify conditions of ZBA FY1983-107 to increase the number of vehicles parked on the property from three to four, at 453 Old Montague Road (Map 2A, Parcel 27, R-O Zoning District) ZBA FY2014-00037 - Jagtar Singh - For a Special Permit to modify Condition #2 of ZBA FY1985-51 to allow a change to the approved parking plan to reconfigure the required four parking spaces, at 27 South Whitney Street (Map 14B, Parcel 145, R-G Zoning District)
ERIC BEAL, CHAIR
AMHERST ZONING BOARD OF APPEALS
May 28, June 4 3295742

SITTING BOARD and VOTE TAKEN:

To grant a Special Permit, ZBA FY2014-00035, to allow the property to be used as a non-owner occupied Converted Dwelling containing two units, under Section 3.3241 of the Zoning Bylaw, with conditions

Tom Ehrgood - Yes Mark Parent - Yes Yuri Friman - Yes

DECISION: APPROVED with conditions

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted

To Jean Bleecker
Address 111 Maybrook Road
City or Town Holland, MA 01521

Identify Land Affected: 560 South East Street
(Map 14A, Parcel 322, B-G Zoning District)

By the Town of Amherst Zoning Board of Appeals affecting the rights of the owner
with respect to the use of the premises on

561 South East Street Amherst
Street City or Town

The record of title standing in the name of

Jean Allison
Name of Owner

Whose address is 111 Maybrook Road Holland MA 01521
Street City or Town State Zip Code

By a deed duly recorded in the

Hampshire County Registry of Deeds: Book 10740 Page 22
or

Hampshire Registry District of the Land Court, Certificate No. _____,
Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2014-00035
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

(Board of Appeals) Chairman

(Board of Appeals) Clerk

_____ at _____ o'clock and _____ minutes _____ m.
Received and entered with the Register of Deeds in the County of Hampshire
Book _____ Page _____

ATTEST _____

Register of Deeds
Notice to be recorded by Land Owner

Town of Amherst Abutter List

<u>Parcel ID</u>	<u>Parcel Address</u>	<u>Owner1</u>	<u>Owner2</u>	<u>Address</u>	<u>City/Zip</u>
17B-1	MILL LN	AMHERST COLLEGE TRUSTEES	ATTN: COMPTROLLERS OFFICE	BOX 2221, AMHERST COLLEGE	AMHERST, MA 01002
17D-20	351 MILL LN	ALDRICH, TIMOTHY W & BACKMAN, PATRICIA A		351 MILL LN	Amherst, MA 01002
17D-63	SOUTH EAST ST	TOWN OF AMHERST		4 BOLTWOOD AVE	Amherst, MA 01002
18C-80	SOUTH EAST ST	TOWN OF AMHERST CONSERV COMM		4 BOLTWOOD WALK	AMHERST, MA 01002
17D-10	SOUTH EAST ST	TOWN OF AMHERST CONSERV COMM		TOWN HALL	AMHERST, MA 01002
17D-57	SOUTH EAST ST	TOWN OF AMHERST CONSERV COMM		TOWN HALL	AMHERST, MA 01002
17D-9	488 SOUTH EAST ST	ALDRICH, GREGORY T & SONIA		488 SOUTH EAST ST	AMHERST, MA 01002
17D-11	560 SOUTH EAST ST	ALLISON, JEAN C		15 MAYBROOK RD	HOLLAND, MA 01521
17D-18	589 SOUTH EAST ST	BENSON, MARTIN C & KUO, NAIHSIN		589 SOUTH EAST ST	AMHERST, MA 01002-3041
17D-19	599 SOUTH EAST ST	ONESTA PROPERTIES LLC		6 UNIVERSITY DR SUITE 208-215	AMHERST, MA 01002
17D-16	603 SOUTH EAST ST	JOHNSON, JOCELYN O		603 SOUTH EAST ST	AMHERST, MA 01002
16B-5	SOUTH PLEASANT ST	COMMONWEALTH OF MASSACHUSETTS	ATTN: DEPT ENVIRONMENTAL MGMT	100 CAMBRIDGE ST	BOSTON, MA 02215